IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9540 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ARCHANA ATUL AGRAWAL

Versus

PASSPORT OFFICER

Appearance:

MR BR GUPTA for Petitioner

MS PJ DAVAWALA for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2

MR AD OZA for Respondent No. 3

MR AMIT J SHAH for Respondent No. 5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 13/09/2000

ORAL JUDGEMENT

Rule. Ms.Davawala waives service of rule on

behalf of respondent No.1.

2. In this petition under Article 226 of the Constitution of India the petitioner has prayed for a direction to respondent No.1-Regional Passport Officer, Ahmedabad to issue passport in favour of the petitioner on the basis that the petitioner's date of birth was 28.2.1965 and not 29.2.1965 as mentioned in the School Leaving Certificate.

3. The petitioner's birth date was mentioned as 29.2.1965 when the petitioner joined respondent No.2-School Rajasthan Hindi High School, Ahmedabad. At that time, the birth date given to the authority was 29.2.1965. Nobody noticed at that time that the year 1965 was not a leap year and therefore the month of February did not have 29 days, but had only 28 days. However, the said mistake continued to be reflected in all the subsequent records. Even when the petitioner applied for passport she mentioned her birth date as 29.2.1965. When the Regional Passport Officer noticed the above mistake it was brought to the notice of the petitioner and the petitioner was required to get the birth date corrected in the relevant school records. When the petitioner approached the school authorities, the school authorities agreed that there was mistake, but indicated their inability to rectify the mistake on the ground that the powers for rectifying such mistakes were available only with the Administrative Officer, The City Primary Education Committee, Ahmedabad Municipal Corporation, Ahmedabad and even a letter was addressed on 28.12.1998 (at annexure "A" to the petition) requesting the authorities for permitting the school authorities to correct the mistake. The said authority however did not acceed to the request on the ground that the mistakes regarding names, birth dates etc can be corrected only when the child is studying in the primary school.

4. Having heard the learned counsel for the parties, it appears to the Court that in the peculiar facts and circumstances of the case, and in view of the admitted fact that in the year 1965 February month did not have 29 days, there is some substance in the petitioner's grievance that the respondent authorities ought to have proceeded on the basis that the birth date of the petitioner was 28.2.1965.

5. In the result, the petition is allowed. The respondents are directed to consider the petitioner's application for showing her birth date as 28.2.1965 for all purposes including for the purpose of passport.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

13.9.2000 (M.S.SHAH,J)